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Application No. 10/748,329
Filed December 31, 2003
Reply to Office Action of September 18, 2006

REMARKS/ARGUMENTS

Claim 8 has been cancelled and claims 6, 7 and 9 have been amended to better define the Applicant's invention.

The undersigned wishes to thank the Examiner for withdrawing the finality of the previous Office Action.

Claim 6 has been rejected under 35 U.S.C § 102(b) as the Examiner asserts that this claim is anticipated by United States Patent No. 4,844,692 to Middlebrooks. Claim 6 has further been rejected under 35 U.S.C § 102(b) as the Examiner asserts that this claim is anticipated by United States Patent No. 4,899,888 to Shawler. Applicant respectfully traverses these rejections.

Middlebrooks generally discloses a storage case for computer-related material including 3.5 inch floppy disks. A series of filler blocks, which are joined together into four individual slabs, are provided to occupy the inner space of the storage case. A filler block may be separated from its slab by breaking the connection to the other blocks in the slab. Filler blocks are removed and/or arranged within the storage case to accommodate the computer-related contents of the case.

Shawler generally discloses a corrugated cardboard packing carton for transportation of rectilinear articles such as framed pictures and mirrors. L-shaped corner inserts are included to provide lateral support to the article during transportation. The L-shaped corner inserts include a plurality of detachably joined

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sections that are removable to allow for re-sizing of the inserts to accommodate articles of different sizes. In one embodiment, the L-shaped corner insert is made up of individual L-shaped sections that are glued together with a releasable adhesive.

Neither Middlebrooks nor Shawler teaches or suggests coupling spacers to the internal walls of a carrying case, as required by amended claim 6. Further, neither reference teaches or suggests a hook and loop fastening system for coupling the spacers to one another, as is also required by amended claim 6.

The filler blocks of Middlebrooks are pre-cut so that adjacent blocks are initially connected by a small, breakable portion. In order to remove filler blocks from the storage case, the breakable portion must be permanently severed. Blocks that have been separated and removed may be re-inserted into the storage case, however, no means for re-coupling the blocks to one another is contemplated. In fact, Middlebrooks suggests using separated blocks as non-abrasive wipers for computer display screens (Column 7, Lines 35-37). As such, Middlebrooks teaches against a hook and loop fastening system for recoupling the blocks to one another since such a system would interfere with the use of the separated blocks as non-abrasive wipers for computer display screens.

Similarly, the inserts of Shawler include a number of individual sections that are pre-cut and detachably connected to one another by a small uncut portion or a releasable adhesive. The inserts remain intact until they are to be utilized (Column 4, Line 7). When an article is to be shipped, an appropriate sized carton is selected, inserts are adjusted to fit by removing sections, as required, and the article is

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packaged for transportation (Column 4, Lines 12-23). Based on the material and the function of the corrugated cardboard shipping carton of Shawler, it can be inferred that once the carton has been assembled and shipped, it is not intended for re-use. It follows that not only is coupling the sections of the insert to one another once they have been separated not contemplated by Shawler but there would be no motivation to re-couple such sections in a single-use cardboard packaging carton. Further, if the shipping carton were intended for re-use, the sections that were removed from the inserts would also need to be shipped, which could interfere with the package contents and would add unnecessary weight to the package.

Withdrawal of the Examiner's rejection of claim 6 is respectfully requested.

Claims 7, 10 and 11 have been rejected under 35 U.S.C § 102(b) as the Examiner asserts that these claims are anticipated by United States Patent No. 4,899,888 to Shawler. Since claims 7, 10 and 11 depend from amended claim 6, Applicant submits that these claims are also patentable over Shawler for at least the same reasons that claim 6 is believed to be patentable.

Claims 8 and 9 have been rejected under 35 U.S.C § 103(a) as the Examiner asserts that these claims are unpatentable over the Shawler reference in view of United States Patent No. 6,899,946 to Geary et al and further in view of United States Patent No. 3,943,572 to Alleo. Claim 8 has been cancelled and accordingly, Examiner's rejection of claim 8 is now moot. Applicant traverses the Examiner's rejection of claim 9.

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Geary et al. generally discloses a restraint for packaging glass sheets. The restraint is L-shaped to abut a corner of a stack of glass sheets. The restraint includes a hard outer layer and a compressible inner layer. The inner and outer layers of Geary et al. are laminated together using a conventional adhesive (glue) or mechanical means (such as Velcro, clamps, pegs or screws extending into or through the layers).

Combining Geary et al. with Shawler would not result in the invention as defined by amended claim 9 since neither reference teaches or suggests coupling spacers to the internal walls of a carrying case. Further, there would be no motivation to replace the releasable adhesive joining the individual sections of the inserts in Shawler with the Velcro of Geary et al. Replacing glue with Velcro in a single-use shipping container would result in the carton being heavier and more expensive to produce, which would be undesirable.

Alleo discloses a protective helmet having earcup assemblies that are not rigidly attached thereto. Energy absorbing pads are detachably secured to the outer surface of the earcup assemblies to provide a cushion between the inner surface of the helmet and the earcup assemblies. Each of the energy absorbing pads includes Velcro provided on both sides thereof. Alleo does not teach or suggest coupling spacers to the internal walls of a carrying case.

Combining Alleo with Shawler and Geary et al. would not result in the invention as defined by amended claim 9 since none of the references teaches or suggests coupling spacers to the internal walls of a carrying case. Therefore, the combination

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of these references cannot possibly render claim 9 or any of the present claims as obvious.


Reconsideration of the Examiner's rejection of the present claims is respectfully requested.

The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3750.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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